

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**BEVERLY TRAN,**

**Plaintiff,**

**CIVIL ACTION NO. 07-CV-13232-DT**

**vs.**

**DISTRICT JUDGE BERNARD A. FRIEDMAN**

**MICHIGAN DEP'T OF  
HUMAN SERVICES, et al.,**

**MAGISTRATE JUDGE MONA K. MAJZOUN**

**Defendants.**

**OPINION AND ORDER DENYING DEFENDANTS' MOTION FOR ATTORNEY'S  
FEES AND COSTS**

This matter comes before the Court on the Motion for Attorney's Fees and Costs filed by Defendants Orchards Children's Services, Carmine Devivo, Lisa Johnson, and Felicia White. (Docket no. 93). Plaintiff filed a Response. (Docket no. 96). Defendants filed a Reply brief. (Docket no. 98). All pretrial matters have been referred to the undersigned for decision. (Docket no. 3). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). This matter is now ready for ruling.

Defendants argue that they are entitled to an award of attorney fees and costs based on 42 U.S.C. § 1988 and under the Court's inherent powers to award such fees. (Docket no. 93). Section 1988 allows the Court, in its discretion, to award attorney fees in a section 1983 action such as this one. 42 U.S.C. § 1988(b). However, the Sixth Circuit has stated that in civil rights actions the award of attorney fees against a losing plaintiff "must be limited to truly egregious cases of misconduct." *Jones v. Continental Corp.*, 789 F.2d 1225, 1232 (6<sup>th</sup> Cir. 1986); *York v. Ferris State*

*Univ.*, 36 F. Supp. 2d 976, 981 (W.D. Mich. 1998). Plaintiff's conduct in this action falls a bit short of this standard. The Court in its discretion will not award attorney fees under this standard. However, Plaintiff is warned that any future actions based on the same general facts and circumstances of this action may result in the award of attorney fees and other sanctions against her.

**IT IS THEREFORE ORDERED** that the Defendants' Motion for Attorney's Fees and Costs (docket no. 93) is **DENIED**.

**NOTICE TO THE PARTIES**

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: May 30, 2008

s/Mona K. Majzoub  
MONA K. MAJZOUB  
UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**

I hereby certify that a copy of this document was served upon Beverly Tran and Counsel of Record on this date.

Dated: May 30, 2008

s/ Lisa C. Bartlett  
Courtroom Deputy  
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